

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**v.**

**NO. CR 05-0924 RB**

**LARRY LUJAN, KACEY LAMUNYON, and  
EUGENIO MEDINA**

**Defendants.**

**UNOPPOSED MOTION FOR ACCESS TO DETENTION CENTER  
PERSONNEL AND RECORDS**

**LARRY LUJAN**, one of the above named defendants, through his counsel, Robert E. Kinney and Marc H. Robert, hereby moves this Court for an Order permitting counsel for Mr. Lujan, together with investigators working on his behalf, access to all records and evidence of Doña Ana County Detention Center pertaining to disciplinary proceedings involving Mr. Lujan, as well as access to detention center personnel for interview purposes.

This motion is based upon the following information:

1. Mr. Lujan has been charged under a Third Superseding Indictment issued in these proceedings with the crimes of Kidnaping Resulting in Death pursuant to 18 U.S.C. §1201(a)(1), and Murder in the perpetration of kidnaping an actual or prospective government witness, all pursuant to 18 U.S.C. §1512(a)(1)(C).

2. The government has filed a Notice of Intent to Seek a Sentence of Death in the case now pending against Mr. Lujan. No such Notice has been filed against any of the other named defendants. In this Notice of Intent, the government has set forth certain statutory and non-statutory factors which allegedly support submitting the issue of death as a sentence to the jury in this case. The non-statutory factors submitted by the government in its notice include an allegation that Mr. Lujan represents a continuing danger to the lives and safety of other persons. The government also claims that Mr. Lujan has a low rehabilitative potential, as evidenced by “repeated acts of institutional misconduct while in the custody of various state and local correction or detention agencies, or the United States Marshal’s Service”.

3. Since his initial appearance in the District of New Mexico, Mr. Lujan has at all times been held in custody at the Doña Ana County Detention Center. While there, Mr. Lujan has been the subject of several informal disciplinary proceedings. Counsel for Mr. Lujan have attempted to investigate the veracity and severity of these allegations, however have been unable to complete their investigation for the following reasons:

- a. Staff members at the detention center have informed defense investigators that they will not be interviewed, nor will witness information be provided to defense counsel unless the prosecutor grants permission or a court order be entered allowing such interviews.

- b. Defense investigators have been prevented from viewing or listening to visual or audio recordings which may have been taken of each event causing disciplinary action, ostensibly for the same reason. Detention Center staff have indicated that they will permit the defense to review such material if the Court so orders.

4. In order for the defense to adequately address the claims made by the government in their Notice of Intent, it is essential that our investigative team be permitted to interview detention center staff, to view reports of investigations and hearings pertaining to the alleged disciplinary events, and to view all physical evidence as well as audio or visual recordings of such events.

5. Assistant United States Attorney Maria Armijo, has indicated that she has no objection to the Court entering an Order permitting this request. She stated, however, that she has no authority over staff at the Doña Ana County Detention Center.

6. Although detention center staff indicated they would cooperate with the defense investigation of these events if “permission” is obtained from the prosecutor, for the reasons stated herein, it is essential that an Order be issued by this Court to ensure full compliance with defense attempts to investigate these events.

**WHEREFORE**, the undersigned requests that the Court enter an Order directing that officials of the Doña Ana County Detention Center cooperate in the defense investigation of this case as specified above.

Respectfully submitted,

FEDERAL PUBLIC DEFENDER  
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(505) 527-6930

By: Electronically filed 8/20/07  
ROBERT E. KINNEY  
MARC H. ROBERT  
COUNSEL FOR LARRY LUJAN

**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the foregoing has been delivered to Assistant U.S. Attorneys Maria Armijo and Mark Saltman by e-filing and by depositing a copy of same in the U.S. Attorney's box at the United States Courthouse on August 20, 2007.

Electronically filed 8/20/07

ROBERT E. KINNEY